

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
<b>v.</b>	)	<b>Case No.: 2:06-cr-00071-MHT-SMD</b>
	)	
<b>BERNETTA WILLIS</b>	)	

**UPDATE TO NOTICE OF SUPPLEMENTAL AUTHORITY**

**Ms. Bernetta Willis**, by undersigned counsel, provides the following update to the Notice of Supplemental Authority (Doc. 438) filed on March 31, 2021:

The Fifth and Ninth Circuits have now joined the Second, Fourth, Sixth, Seventh and Tenth Circuits, in holding that the policy statement at U.S.S.G. § 1B1.13 does not apply to defendant-filed compassionate release motions. *United States v. Shkambi*, \_\_\_ F.3d \_\_\_, No. 20-40543, 2021 WL 1291609, \*3-4 (5th Cir. Apr. 7, 2021); *United States v. Aruda*, \_\_\_ F.3d \_\_\_, No. 20-10245, 2021 WL 1307884, \*4 (9th Cir. Apr. 8, 2021).

In *United States v. Kepa Maumau*, \_\_\_ F.3d \_\_\_, No. 20-4056, 2021 WL 1217855 (10th Cir. April 1, 2021), the Tenth Circuit affirmed the district court's grant of compassionate release (cited at p. 17 of Doc. 438) and reduction of Mr. Maumau's 55 year sentence for three armed robberies to time-served. The Tenth Circuit adopted the three-step test for compassionate release motions identified in *United States v. Jones*, 980 F.3d 1098, 1107-08 (6th Cir. 2020) and clarified in *United States v. Elias*, 984 F.3d 516, 519 (6th Cir. 2021). *Maumau*, 2021 WL 1217855, \*7.

In *McCreary v. United States*, \_\_\_ F.Supp.3d \_\_\_, No. CR-04-313, 2021 WL 1207438 (D. Ariz. Mar. 25, 2021), a district court granted a motion for compassionate release to a defendant serving 38.5 years as a result of two armed bank robberies. The court found that the total

sentence, including the stacked § 924(c) convictions, was “dramatically longer than necessary or fair” and that this, along with other factors considered under 18 U.S.C. § 3553(a), presented “extraordinary and compelling reasons,” proved Mr. McCreary was not a danger to the public, and justified a sentence reduction to a total sentence of 20.5 years. *Id.* at 6-7.

Respectfully submitted,

**/s/Christine A. Freeman**  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 8, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Respectfully submitted,

**/s/Christine A. Freeman**  
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